

Chapter 203. PROPERTY TAX DEFERRAL FOR SENIOR CITIZENS

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[**HISTORY:** Adopted by the Town of ~~Wells 6-14-2011~~ Cape Elizabeth. Amendments noted where applicable.]

GENERAL REFERENCES

~~Taxation—See Ch. 204.~~

§ 203-1. Purpose.

The purpose of this chapter of the ~~Wells Code~~ Cape Elizabeth Municipal Ordinance is to provide a means for certain individuals to take advantage of the Property Tax Deferral Program for Senior Citizens enacted by the 124th Maine Legislature during its Second Regular Session, as amended, to defer certain property taxes assessed by the Town of ~~Wells~~ Cape Elizabeth, and to enable the Town to collect those taxes at the end of the deferral period, with interest.

§ 203-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

ELIGIBLE HOMESTEAD

The owner-occupied principal dwelling, either real or personal property, owned by the taxpayer and the land upon which it is located. If the dwelling is located in a multiunit building, the eligible homestead is the portion of the building actually used as the principal dwelling and its percentage of the value of the common elements and of the value of the tax lot upon which it is built. The percentage is the value of the dwelling compared to the total value of the building exclusive of the common elements, if any.

FEDERAL POVERTY LEVEL

The non-farm income official poverty line for a family of the size involved, as defined by the Federal Office of Management and Budget and revised annually in

accordance with the United States Omnibus Budget Reconciliation Act of 1981, Section 673, Subsection 2.

HOUSEHOLD

A claimant and spouse and members of the household for whom the claimant is entitled to claim an exemption as a dependant for the year in which relief is requested.

HOUSEHOLD INCOME

All income received by all persons of a household in a calendar year while members of the household.

TAX-DEFERRED PROPERTY

The property upon which taxes are deferred under this chapter.

TAXES or PROPERTY TAXES

Ad valorem taxes, assessments, fees and charges entered on the assessment and tax roll.

TAXPAYER

An individual who is responsible for payment of property taxes and has applied to participate or is currently participating in the program under this chapter.

§ 203-3. Eligibility requirements.

In order to qualify for the tax deferral under this chapter, the applicant must meet all of the following requirements when the application is filed and thereafter as long as the payment of taxes by the taxpayer is deferred:

- A.** _____ The property must be an eligible homestead where the taxpayer has resided for at least 10 years prior to application. The residency requirement of this subsection does not apply if absence from the eligible homestead was/is by reason of health.
- B.** _____ The taxpayer is an owner of the eligible homestead, is at least 70 years of age on April 1 of the first year of eligibility and occupies the eligible homestead.
- C.** _____ The household income of the taxpayer does not exceed 300% of the federal poverty level.
- D.** _____ The household income of the taxpayer may not exceed 300% of the federal poverty level during the entire period of the deferral. The applicant may be asked to provide documentation of this during the period the property tax on eligible property is deferred.
- E.** _____ There must be no prohibition to the deferral of property taxes contained in any provision of federal law, rule or regulation applicable to a mortgage, trust deed, land sale contract or conditional sale contract for which the eligible homestead is security.

F. _____ There must be no outstanding property taxes owed on the homestead at the time of application for deferral. The restriction imposed by this subsection may be waived if the municipal treasurer determines that the taxpayer is eligible to participate in the deferral of taxes pursuant to this chapter but for this subsection. If such a waiver is recommended, the municipal treasurer shall forward the application with an explanation of the waiver to the ~~Board of Selectmen~~Town Council for acceptance, and by majority vote of the ~~Board of Selectmen~~Town Council, they shall defer the delinquent taxes subject to the provisions of this chapter.

§ 203-4. Application for deferral.

A. _____ An individual or two or more individuals jointly may request a deferral on the property taxes on their eligible homestead by filing an application, on a form supplied by the Town, for deferral with the municipal treasurer, after January 1, but no later than March 31 of the first year in which deferral is requested. Nothing in this chapter may be constructed to require a spouse of an individual to request a deferral jointly with the individual even though the spouse may be eligible to apply for deferral jointly with the individual.

B. _____ The application, information submitted in support of an application and files and communications relating to an application for deferral of taxes under the program are confidential. Hearings and proceedings held by the Town of ~~Wells~~Cape Elizabeth on an application must be held in executive session unless otherwise requested by the applicant. Nothing in this subsection applies to the recording of liens or lists, or any enforcement proceedings undertaken by the Town of Cape Elizabeth~~-Wells~~ pursuant to this chapter or other applicable law.

C. _____ The Town of ~~Wells~~Cape Elizabeth will make available upon request the most recent list of tax-deferred properties required to be kept and filed. The Town may also publish and release as public information statistical summaries concerning the program as long as the release of the information does not jeopardize the confidentiality of individually identifiable information.

§ 203-5. Determination of eligibility.

A. _____ Within 30 days of receipt of the application, the municipal treasurer shall determine if all qualifications are met and take one of the following actions:

(1) If the municipal treasurer determines that the applicant(s) is/are eligible for the deferral, the treasurer shall approve the application and notify the Tax Collector, Tax Assessor, and the applicant(s), in writing, of this decision.

(2) If the municipal treasurer determines that the applicant(s) is/are not eligible for the deferral, the treasurer shall notify the taxpayer, in writing, with the reason for

the ineligibility and notification of the right to supply additional information within 10 days of receipt of the determination.

- B. ___ If the request for property tax deferral is not accepted by the treasurer, the treasurer shall, within 10 days, notify the taxpayer, in writing, with the reason for denial and the right to appeal pursuant to § 203-6.
- C. ___ If a guardian or conservator has been appointed for an individual otherwise qualified to obtain deferral of taxes under this chapter, the guardian or conservator may act for that individual in complying with this chapter.

§ 203-6. Appeal.

- A. ___ Any person aggrieved by a denial of a deferral of homestead property taxes or a disqualification from deferral of homestead property taxes may file a written appeal of said determination to the ~~Board of Selectmen~~ Town Council, within 30 days of notification of the denial or disqualification.
- B. ___ The ~~Board of Selectmen~~ Town Council shall schedule a hearing of the applicant's appeal, in executive session, within 15 days of receipt of notice of an appeal. The ~~Board of Selectmen~~ Town Council shall make a decision within 15 days of the hearing, and shall notify the applicant, in writing, of its decision within five days of making such decision.
- C. ___ In the event an applicant is dissatisfied with the decision of the ~~Board of Selectmen~~ Town Council, he or she may appeal that decision to court in accordance with the Maine Rules of Civil Procedure, Rule 80B, which governs appeals of municipal governmental action.

§ 203-7. Effect of property tax deferral.

If the taxpayer is determined to be eligible and the request for a property tax deferral is accepted, it shall have the effect of:

- A. ___ Deferring the payment of the property taxes levied on the eligible homestead for the municipal fiscal year beginning on or after April 1 of the year the determination of eligibility is made.
- B. ___ Continuing deferral of the payment by the taxpayer of any property taxes deferred under this chapter for previous years that have not become delinquent.
- C. ___ Continuing the deferral of the payment by the taxpayer of any future property taxes for as long as the provisions of this chapter are met.
- D. ___ If property taxes are deferred under this program, the lien established on the eligible homestead under Title 36, Section 552 of the Maine Revised Statutes continues for the purpose of protecting the municipal interest in the tax-deferred property.

- E. ___ Interest on the deferred taxes accrues at the rate of 0.5% above the otherwise applicable rate for delinquent taxes.
- F. ___ In order to preserve the right to enforce the lien, the Town shall record in the county registry of deeds a list of the tax-deferred properties. The list must contain a description of each tax-deferred property as listed in the municipal valuation together with all of the names of each of the taxpayers listed on the valuation. The list must be updated annually to reflect the addition or deletion of tax-deferred properties, the amount of deferred taxes accrued for each property and payments received.
- G. ___ The recording of the tax-deferred properties under this subsection is notice that the Town claims a lien against those properties in the amount of the deferred taxes plus interest together with any fees paid to the county registry of deeds in connection with the recording. For a property deleted from the list, the recording serves as notice of release or satisfaction of the lien, even though the amount of taxes, interest or fees is not listed.

§ 203-8. Application.

The application for deferral under this chapter shall be in writing on a form supplied by the Town of ~~Cape Elizabeth~~Wells, which may be amended from time to time by the ~~Board of Selectmen~~Town Council, and shall contain the following at a minimum:

- A. ___ A description of the eligible homestead property, which shall include the Property Tax Map and Lot Number as well as the physical address of the property.
- B. ___ Name(s) and address(es) of the applicant(s).
- C. ___ Date(s) of birth of the applicant(s).
- D. ___ Social security number of the applicant(s).
- E. ___ A recitation of the facts establishing the eligibility for the deferral under the provisions of this chapter, including:
 - (1) Facts that establish that the household income was less than 300% of the federal poverty level, as defined above, for the calendar year immediately preceding the calendar year in which the application is filed; and
 - (2) Facts that show the applicant(s) has maintained the property as the primary residence for the previous 10 consecutive years.
- F. ___ A statement, upon information and belief, that the household income will be less than 300% of the federal poverty level, as defined above, for the current calendar year in which the application is made.

G. ___ A notice that the applicant may be required to provide evidence that the requirements of § [203-3](#) have been met, which may include a copy of the deed for the property, and a birth certificate.

H. ___ A signature line which shall also have a statement notifying the applicant(s) that s/he attests, under penalty of perjury, that the statements contained in the application are true.

§ 203-9. Listing of tax-deferred property.

A. ___ If eligibility for deferral of homestead property is established as provided in this chapter, the municipal treasurer shall notify the municipal assessor who shall show on a list as provided herein which property is tax-deferred property by an entry clearly designating that the property is tax-deferred property. The Treasurer shall also notify the Tax Collector of the decision to permit a property to be tax deferred.

B. ___ On or before December 15 of each year, the municipal treasurer shall send a notice by ordinary mail to each taxpayer who has claimed deferral of property taxes for the current tax year. The notice must:

(1) Inform the taxpayer(s) that the property taxes have been deferred in the current year.

(2) Show the total amount of deferred taxes remaining unpaid since initial application for deferral and the interest accruing thereon to November 15 of the current year.

(3) Inform the taxpayer(s) that voluntary payment of the deferred taxes may be made at any time, and that such payments shall first be applied to the oldest deferred taxes.

(4) Inform the taxpayer(s) they must notify the municipal treasurer if they no longer meet the income eligibility criteria under § [203-5](#).

(5) Contain any other information that the ~~Board of Selectmen~~Town Council considers necessary to facilitate administration of the homestead deferral program including, but not limited to, the right of the taxpayer to submit any amount of money to reduce the total amount of the deferred taxes and interest.

§ 203-10. Events requiring payment of deferred tax and interest.

Subject to § [203-11](#), all deferred property taxes, including accrued interest, become payable when:

- A. ___ Death of claimant. The taxpayer who was granted a deferment of collection of property taxes on the eligible homestead dies or, if there was more than one applicant, the survivor of the taxpayers who originally applied for deferment dies.
- B. ___ Transfer of the property. The eligible homestead is sold, or some person other than the taxpayer who received the deferment becomes the owner of the property.
- C. ___ Taxpayer moves. The tax-deferred property is no longer occupied by the taxpayer(s) as a principal residence, except if the taxpayer(s) must be absent from the eligible homestead for health reasons.
- D. ___ Removal of home. The tax-deferred property, a mobile or floating home, is moved out of the Town.
- E. ___ Change in eligibility status. The taxpayer's household income was not less than 300% of the federal poverty level for the calendar year immediately preceding the date of the receipt of the annual deferral notice under § [203-9](#).

§ 203-11. Tax payments.

- A. ___ When it is determined that one of the events set out in § [203-10](#) has occurred and that a property is no longer eligible for property tax deferral under this chapter, the treasurer shall send notice by certified mail to the taxpayer, or the taxpayer's heirs or devisees, listing the total amount of deferred property taxes, including accrued interest and costs of all the years and establishing a due and payable date. For events listed in § [203-10A](#), [B](#), [C](#) and [E](#), payment is due within 45 days of the date of the notice. When the event listed in § [203-10D](#) occurs, the total amount of deferred taxes is due and payable five days before the date of removal of the property from the Town. The notice from the Treasurer shall include a statement that the lien enforcement procedures pursuant to state law apply.
- B. ___ If the deadlines established in § [203-11A](#) have not been met, the Town may enforce its lien according to governing state statute.
- C. ___ Any partial payments accepted during the deferral period or during the eighteen-month redemption period provided for in state statute may not interrupt or extend the redemption period or in any way affect applicable foreclosure procedures.

§ 203-12. Election by spouse to continue tax deferral.

- A. ___ When one of the circumstances listed in § [203-10](#) occurs, the spouse who did not or was not eligible to file an application jointly with the taxpayer may continue the property in its deferred tax status by filing an application within the time and in the manner provided in § [203-4](#) if:

(1) The spouse of the taxpayer is or will be 70 years of age or older not later than six months from the day the circumstance listed in § [203-10](#) occurs; and

(2) The property is the homestead of the spouse of the taxpayer and meets the requirements of § [203-3B](#).

B. Continuation of deferral by spouse. A spouse who does not meet the age requirements of this chapter but is otherwise qualified to continue the property in its tax-deferred status under § [203-12A](#) may continue the deferral of property taxes deferred for previous years by filing an application within the time and in the manner provided under this chapter. If a spouse eligible for and continuing the deferral of taxes previously deferred under this subsection becomes 70 years of age prior to April 1 of any year, the spouse may elect to continue the deferral of previous years' taxes deferred under this subsection and may elect to defer the current assessment year's taxes on the homestead by filing an application within the time and in the manner provided in this chapter. Thereafter, payment of the taxes levied on the homestead and deferred under this subsection and payment of taxes levied on the homestead in the current assessment year and in future years may be deferred in the manner provided in and subject to this chapter.

§ 203-13. Voluntary payment of deferred tax.

A. All payments of deferred taxes shall be made directly to the Town of [Cape Elizabeth, Wells.](#)

B. Subject to § [203-13C](#) below, all or part of the deferred taxes and accrued interest may at any time be paid by:

(1) The taxpayer or the spouse of the taxpayer; or

(2) The next of kin of the taxpayer, heir at law of the taxpayer, child of the taxpayer, or any person having or claiming a legal or equitable interest in the property.

C. A person listed in § [203-13B\(2\)](#) may make the payments only if no objection is made by the taxpayer within 30 days after the Town deposits in the mail notice to the taxpayer of the fact that the payment has been tendered.

D. Any payment made under this section shall be applied first against the oldest taxes and any remainder against other deferred taxes. This payment does not affect the deferred-tax status of the property. Unless otherwise provided by law, this payment does not give the person paying the taxes any interest in the property or any claim against the estate, in the absence of a valid agreement to the contrary.

E. ____ When the deferred taxes are paid in full and the property is no longer subject to deferral, the Treasurer shall prepare and record in the ~~York~~Cumberland County Registry of Deeds a certification of payment in the form of an affidavit by the Tax Collector that payment has been made.

§ 203-14. Limitations.

Nothing in this chapter is intended or may be construed to:

A. Prevent the collection, by foreclosure, of property taxes which become a lien against tax-deferred property.

B. Affect any provision or provisions of any mortgage, or other instrument relating to land, requiring a person to pay taxes.

§ 203-15. Separability.

If any provision of this chapter is held invalid, the other provisions of the chapter will not be affected thereby.

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